



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0374]

RIN 1625-AA09

Drawbridge Operation Regulation; Perth Amboy, New Jersey

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the drawbridges at State Street Bridge, mile 0.5, and the Railroad Bridge, mile 0.6, across Woodbridge Creek at Perth Amboy, New Jersey. The State Street Bridge was replaced with a fixed bridge in 1992. The Railroad Bridge was converted to a fixed bridge in 1970. The operating regulation is no longer applicable or necessary.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The docket for this final rule, [USCG-2015-0374] is available at <http://www.regulations.gov>. Type the docket

number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this final rule. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Joe M. Arca, Project Officer, First Coast Guard District Bridge Branch, telephone 212-514-4336, email [joe.m.arca@uscg.mil](mailto:joe.m.arca@uscg.mil). If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed

rulemaking (NPRM) with respect to this rule because the State Street Bridge and the Railroad Bridge, that once required draw operations in 33 CFR 117.761, were replaced by fixed bridges in 1992 and 1970, respectively. Therefore, the regulation is no longer applicable and shall be removed. It is unnecessary to publish an NPRM because this regulatory action does not place any restrictions on mariners but rather removes a restriction that has no further use or value.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register. The bridges have been a fixed bridge for 23 and 45 years, respectively, and this rule merely requires an administrative change to the federal register, in order to omit a regulatory requirement that is no longer applicable or necessary. The modifications have already taken place and the removal of these regulations will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

#### B. Basis and Purpose

The State Street Bridge across Woodbridge Creek, mile 0.5, was removed and replaced in 1992 with a fixed bridge. The Railroad Bridge, mile 0.6, was converted to a fixed bridge in 1970. It has come to the attention of the Coast Guard that the governing regulation for these drawbridges were not

removed subsequent to the replacement and conversion of these bridges. The elimination of these drawbridges necessitates the removal of the drawbridge operation regulation, 33 CFR 117.761, pertaining to the former drawbridges.

The purpose of this rule is to remove the paragraph of 33 CFR 117.761 that refers to the State Street Bridge and the Railroad Bridge at mile 0.5 and mile 0.6, respectively, from the Code of Federal Regulations because it governs bridges that no longer open.

#### C. Discussion of Rule

The Coast Guard is changing the regulation in 33 CFR 117.761 by removing restrictions and the regulatory burden related to the draw operations for these bridges that are no longer drawbridges. The change removes the section 117.761 of the regulation which governs the State Street Bridge and the Railroad Bridge. This Final Rule seeks to update the Code of Federal Regulations by removing language that governs the operation of the State Street Bridge and the Railroad Bridge, which are in fact no longer drawbridges. This change does not affect waterway or land traffic.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we

summarize our analyses based on these statutes or executive orders.

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard does not consider this rule to be "significant" under that Order because it is an administrative change and does not affect the way vessels operate on the waterway.

#### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will have no effect on small entities since these drawbridges have been replaced, converted with fixed bridges and the regulation governing draw operations for these bridges is no longer applicable. There is no new restriction or regulation being imposed by this rule; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

### 3. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### 4. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### 5. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in



complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the removal of a drawbridge operation regulation that is no longer necessary. This rule is categorically excluded, under figure 2-1, paragraph (32) (e), of the Instruction.

Under figure 2-1, paragraph (32) (e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

**§ 117.761 [Removed]**

2. Remove § 117.761.

**L.L. Fagan,**

*Rear Admiral, U.S. Coast Guard,  
Commander, First Coast Guard District.*

[FR Doc. 2015-18772 Filed: 7/29/2015 08:45 am; Publication  
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